

ASSEMBLY BILL

No. 1035

Introduced by Assembly Member Spitzer

February 22, 2005

An act to amend Sections 6254.21 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1035, as introduced, Spitzer. Public officials: home information.

Existing law prohibits a state or local agency from posting on the Internet the home address or telephone number of any elected or appointed official, as defined. It also prohibits, and makes punishable as a misdemeanor or felony, as specified, any person from knowingly posting this information or that of the official's residing spouse or child on the Internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm to that individual.

This bill would also prohibit any state or local agency from hosting or providing service to an Internet web site that posts an official's home address or telephone number, or disclosing the location thereof. The bill also would prohibit any person from knowingly engaging in these actions. It would further provide that an official whose home address or telephone number is disclosed as a result of a violation of these provisions may recover actual damages, including court costs, loss of wages, attorney's fees, pain and suffering, punitive damages not to exceed \$10,000, and any other relief that a court deems proper and appropriate. By expanding an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.21 of the Government Code is
2 amended to read:

3 6254.21. (a) No state or local agency shall post *on the*
4 *Internet, or host or provide service to an Internet Web site that*
5 *posts, nor disclose the location of,* the home address or telephone
6 number of any elected or appointed official ~~on the Internet~~
7 without first obtaining the written permission of that individual.

8 (b) No person shall knowingly post *on the Internet, or host or*
9 *provide service to an Internet Web site that posts, nor disclose*
10 *the location of,* the home address or telephone number of any
11 elected or appointed official, or of the official's residing spouse
12 or child ~~on the Internet~~ knowing that person is an elected or
13 appointed official and intending to cause imminent great bodily
14 harm that is likely to occur or threatening to cause imminent
15 great bodily harm to that individual. A violation of this
16 subdivision is a misdemeanor. A violation of this subdivision that
17 leads to the bodily injury of the official, or his or her residing
18 spouse or child, is a misdemeanor or a felony.

19 (c) *An official whose home address or telephone number is*
20 *disclosed as a result of a violation of this section may recover*
21 *actual damages, including court costs, loss of wages, attorney's*
22 *fees, pain and suffering, punitive damages not to exceed ten*
23 *thousand dollars (\$10,000), and any other relief that a court*
24 *deems proper and appropriate.*

25 (d) For purposes of this section "elected or appointed official"
26 includes, but is not limited to, all of the following:

- 27 (1) State constitutional officers.
28 (2) Members of the Legislature.
29 (3) Judges and court commissioners.

- 1 (4) District attorneys.
- 2 (5) Public defenders.
- 3 (6) Members of a city council.
- 4 (7) Members of a board of supervisors.
- 5 (8) Appointees of the Governor.
- 6 (9) Appointees of the Legislature.
- 7 (10) Mayors.
- 8 (11) City attorneys.
- 9 (12) Police chiefs and sheriffs.
- 10 (13) A public safety official as defined in Section 6254.24.
- 11 ~~(d)~~

12 (e) Nothing in this section is intended to preclude punishment
13 instead under Sections 69, 76, or 422 of the Penal Code, or any
14 other provision of law.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the
20 penalty for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition of a
22 crime within the meaning of Section 6 of Article XIII B of the
23 California Constitution.